

REMARKS

The final Office Action, mailed May 16, 2006, considered and rejected claims 1-26. Claims 1, 2, 12, 13, 15, 16, 18 and 21-26 were rejected under 35 U.S.C. § 102(e) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020). Claims 3-7 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020) in view of Knudson (U.S. Publ. No. 2005/0216936). Claims 8-11 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020) in view of Ching (U.S. Publ. No. 2001/0003184). Claim 14 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020) in view of Flickinger (U.S. Publ. No. 2005/0210502). Claim 17 was rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020) in view of Thomas (U.S. Publ. No. 2005/0251824). Claims 19 and 20 were rejected under 35 U.S.C. § 103(a) as being unpatentable over Zigmond (U.S. Patent No. 6,698,020) in view of Ohkura et al. (U.S. Patent No. 6,347,400).¹

By this paper, claims 1, 3, 4 and 25 have been amended, claim 28 added, and no claims have been cancelled.² Accordingly, following this paper, claims 1-26 and 28 are pending, of which claims 1 and 25 are the only independent claims at issue.

As reflected in the above listing of claims, Applicant's invention relates to targeting video segments based on remotely issued target instructions and locally stored state and user information. As recited in claim 1, for example, state and user behavior characteristics associated with a video receiver are monitored locally and stored only at the video receiver. The receiver also receives multiple video segments from a stream, and further receives from the stream remotely issued executable instructions that can cause the receiver to select a particular video segment based on the locally stored characteristics. As further recited, the remotely issued executable instructions are further processed by using the locally stored characteristics to cause the video receiver to select the particular video segment, and the selected video segment is caused to be displayed in a window on the display device. As further recited in the amended claims, the particular video segment may also be displayed in the window simultaneously with

¹ Although the prior art status of the cited art is not being challenged at this time, Applicant reserves the right to challenge the prior art status of the cited art at any appropriate time, should it arise. Accordingly, any arguments and amendments made herein should not be construed as acquiescing to any prior art status of the cited art.

² Support for the amendments and new claims can be found throughout Applicant's disclosure, including, by way of representation only, the discussion in paragraphs [0042], [0054], [0055] and [0058] of the originally filed application.

primary content which is received locally and displayed in accordance with a selection made by the viewer of the primary content (claim 3). Additionally, the data associated with the video segments may be received locally and include a list of video segments and a schedule of video segments to be displayed at a particular time (claim 28).

Independent claim 25 recites a computer program product that has computer readable media with computer-executable instructions for performing a method generally corresponding to the method of claim 1.

While the inventive methods and systems of Zigmond generally relate to selecting and inserting advertisements into a video programming feed, Applicant submits that Zigmond fails to teach each and every limitation of the pending independent claims and, accordingly, fails to anticipate the pending claims. For instance, it appears that Zigmond fails to teach or suggest causing the video segment to be displayed in a window on the display device (claims 1 and 25) and displaying the selected video segments simultaneously with primary content selected by a viewer (claim 3).

Zigmond discloses a system that includes a home entertainment device which selects one of multiple advertisements to display to a viewer according to advertisement selection criteria combined with information about the viewer and the system. (Abstract; Col. 6, ll. 5-12). The advertisement selection criteria includes advertisement parameters associated with the particular advertisement as well as advertisement selection rules. (Col. 11, ll. 30-37). The advertisement parameters describe the content of the advertisement or otherwise characterize the advertisement for appropriate display. (Col. 11, ll. 37-42). The advertisement selection rules match the viewer and system information with the advertisement parameters to target desired viewers. (Col. 11, ll. 42-49). Moreover, the advertising selection rules change over time as additional viewer and system information is compiled. (Col. 11, ll. 59-65; Col. 12, ll. 12-14).

Upon selecting an advertisement, and at an appropriate time specified in a video programming feed, the home entertainment device inserts the advertisement. (Col. 7, ll. 26-36). To do so, the home entertainment device includes a video switch which toggles between the video programming and a selected advertisement. (Col. 8, ll. 33-36). In this manner, the home entertainment device interrupts the display of the video programming feed and replaces the video feed with the selected advertisement. (Col. 7, ll. 26-29; Col. 15, ll. 57-61).

Accordingly, while Zigmond appears to disclose systems for selecting and displaying an advertisement on a display device, Zigmond fails to disclose wherein a selected particular video segment is displayed in a window on the display device, as claimed in combination with the recited claim elements. In fact, the Office Action appears to agree with this conclusion inasmuch as it notes that "Zigmond does not specifically disclose displaying the video segment in a window." (Office Action, p. 6). Accordingly, Zigmond fails to teach or suggest each and every limitation of the pending independent claims.

In addition, Applicant respectfully submits that Zigmond fails to teach or suggest wherein a video segment is displayed simultaneously with primary content (claim 3). In particular, and as noted above, Zigmond appears to disclose wherein a selected advertisement is displayed only by interrupting the original video programming and replacing it on the display device. Accordingly, instead of disclosing a system in which a selected video segment and the primary content are displayed at the same time, Zigmond teaches, in contrast, that only one of the advertisement and the programming can be displayed at a given time.

Further, with respect to claim 28, Applicant respectfully submits that Zigmond also fails to teach or suggest wherein locally received data associated with a plurality of video segments includes a list of the video segments and a schedule of particular times when the video segments are to be displayed, as recited in combination with the other claimed elements.

In light of the foregoing, Applicant respectfully submits that the cited references fail to teach or suggest each and every limitation of the pending claims and, accordingly, respectfully requests that the rejections of record be withdrawn.

Applicant also respectfully notes that Zigmond is an improper reference for any rejection based on 35 U.S.C. § 103, including the rejections made with respect to claims 3-11, 14, 17, 19 and 20. In particular, Zigmond should be disqualified as a prior art reference under 35 U.S.C. § 103(c) inasmuch as Zigmond was, at the time the present invention was made, commonly assigned to, or subject to assignment to, the Assignee of the present application (namely Microsoft, through WebTV Networks).

In view of the foregoing, Applicants respectfully submit that the other rejections to the claims are now moot and do not, therefore, need to be addressed individually at this time. It will be appreciated, however, that this should not be construed as Applicants acquiescing to any of the purported teachings or assertions made in the last action regarding the cited art or the pending

application, including any official notice. Instead, Applicants reserve the right to challenge any of the purported teachings or assertions made in the last action at any appropriate time in the future, should the need arise. Furthermore, to the extent that the Examiner has relied on any Official Notice, explicitly or implicitly, Applicants specifically request that the Examiner provide references supporting the teachings officially noticed, as well as the required motivation or suggestion to combine the relied upon notice with the other art of record.

In the event that the Examiner finds remaining impediment to a prompt allowance of this application that may be clarified through a telephone interview, the Examiner is requested to contact the undersigned attorney.

Dated this 16th day of July, 2006.

Respectfully submitted,



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